## BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

PEDRO DIAZ Claimant	)
VS.	) ) Docket No. 163,732
NATIONAL BEEF PACKING COMPANY Respondent AND	) ) )
LUMBERMENS UNDERWRITING ALLIANCE Insurance Carrier	) )

## **ORDER**

The claimant files this Application for Review requesting the Workers Compensation Appeals Board to review an Order entered by Administrative Law Judge Thomas F. Richardson on February 3, 1995, during the evidentiary deposition of Dr. C. Reiff Brown.

## ISSUES

The claimant alleges that Administrative Law Judge Thomas F. Richardson exceeded his jurisdiction by denying the claimant the right to cross-examine Dr. C. Reiff Brown during his evidentiary deposition. The claimant's Application for Review contains extensive argument and exhibits in reference to this issue.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After a complete review of the arguments contained in the claimant's Application for Review and exhibits attached thereto, the Appeals Board finds and concludes that the decision of the Administrative Law Judge to not allow the claimant to cross-examine Dr. C. Reiff Brown is not a final order that can be reviewed by the Appeals Board pursuant to K.S.A. 44-551 (as amended by S.B. 59, 1995). Additionally, the ruling made by the Administrative Law Judge does not raise a jurisdictional issue that can be reviewed pursuant to K.S.A. 44-534a. Administrative Law Judge Richardson's decision to not allow the claimant to cross-examine Dr. Brown is simply an evidentiary ruling that the Administrative Law Judge has the authority to make during the trial of a workers compensation case. The Appeals Board therefore finds it does not have jurisdiction to review such an evidentiary ruling until such time as it is included in the final award of the

Administrative Law Judge, whereupon the Appeals Board would have jurisdiction pursuant to K.S.A. 44-551(b)(1) (as amended by S.B. 59, 1995).

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Application for Review filed by the claimant is dismissed as the Appeals Board lacks jurisdiction to review the Order of Administrative Law Judge Thomas F. Richardson denying the claimant the right to cross-examine Dr. C. Reiff Brown during an evidentiary deposition.

Dated this day of Febr	ruary, 1995.
Ē	BOARD MEMBER
Ē	BOARD MEMBER
Ī	ROARD MEMBER

c: C. Albert Herdoiza, Kansas City, KS Kerry McQueen, Liberal, KS Thomas F. Richardson, Administrative Law Judge George Gomez, Director

IT IS SO ORDERED.